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& SANDRA BITTON
15

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA

18 JEFFREY BITTON, MICHA BITTON AND
SANDRA BITTON,
19 Plaintiffs,
20 vs.
21

22 CITY AND COUNTY OF SAN
FRANCISCO, a municipal entity, SAN
FRANCISCO POLICE DEPARTMENT
23 CAPTAIN DAVID LAZAR, POLICE
OFFICER BERKE (SFPD BADGE NO.
24 2240), POLICE OFFICER BRENT
BRADFORD (SFPD BADGE NO. 4199),
25 POLICE OFFICER NG (SFPD BADGE NO.
338), POLICE OFFICER DOWKY (SFPD
BADGE NO. 799), POLICE OFFICER
26 MARON (SFPD BADGE NO. 1929), POLICE
OFFICER NEWBECK (SFPD BADGE NO.
1691), POLICE OFFICER PAPALE (SFPD

Case No. C08-5585 MMC
ORDER RE:
**JOINT STIPULATION TO EXTEND FACT
DISCOVERY CUT-OFF DATE**

27
28 STIPULATION AND MOTION RE EXTENSION OF
FACT AND EXPERT DISCOVERY DEADLINES;
CASE NO. C08-5585 MMC

1 BADGE NO. 642), POLICE OFFICER
 2 JONES (SFPD BADGE NO. 852), POLICE
 3 OFFICER GARDEN (SFPD BADGE NO.
 4 404), POLICE OFFICER MCKINNEY (SFPD
 5 BADGE NO. 4), POLICE OFFICER
 6 LIBERTA (SFPD BADGE NO. 682), and
 7 DOES 1-100,

8 Defendants.

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 10 Pursuant to Local Rule 6-2, the parties jointly file this stipulated motion to extend the fact
 11 discovery deadline from January 29, 2010 to March 26, 2010 and to extend the expert discovery
 12 deadline from March 26, 2010 to April 26, 2010.

13 This is a civil rights action brought by the Jeffrey Bitton, Micha Bitton and Sandra Bitton
 14 against individual San Francisco police officers and the City and County of San Francisco. Plaintiffs
 15 contend that the Defendants violated their Fourth Amendment rights by making an illegal arrest, an
 16 unlawful entry into their home and using unlawful force, while the Defendants maintain that probable
 17 cause existed to arrest, exigent circumstances justified a warrantless entry, and that any force used was
 18 lawful.

19 On March 20, 2009, the Court entered a Pretrial Order that established the relevant fact, expert,
 20 and trial deadlines controlling this litigation. Pursuant to that Order, fact discovery closes on January
 21 29, 2010, and expert discovery closes on March 26, 2010. The pretrial hearing is set for June 12, 2010,
 22 and trial is set for July 12, 2010. A copy of the Order is attached hereto as Exhibit 1.

23 The parties have agreed to a short extension of time to complete both fact and expert
 24 discovery; the requested extension does not effect the pretrial date or the trial date. Good cause exists
 25 to extend fact and expert discovery deadlines based on factors that were beyond the control of the
 26 parties. On April 6, 2009, the Court originally appointed Charles E. Farnsworth as ENE evaluator and
 27 set the ENE conference for June 11, 2009. However, due to conflicting schedules of the parties and
 the evaluator, and the evaluator's extended vacation plan, the parties were unable to conduct the
 hearing. Further, defense counsel had a serious family medical emergency during that time, which
 hampered scheduling of the conference.

The parties attempted to reschedule the ENE hearing but due to reasons unknown to the parties, the ADR administrator recommended that the parties use a different evaluator. The parties agreed, and on or around November 24, 2009, the Court appointed Patrick Robbins. On December 2, 2009, the parties held their joint phone conference with Mr. Robbins and set January 22, 2010 as the date for the ENE hearing. The hearing is only seven days before fact discovery is scheduled to close.

The parties had agreed to conduct an early neutral evaluation in an attempt to explore the possibility of resolution without incurring the costs of discovery. The parties have delayed the taking of any lengthy discovery in anticipation of the ENE. Because the ENE hearing has been postponed until January 20, 2010, little time to conduct discovery remains if the case does not resolve there. Thus, the parties will need additional time to complete fact discovery. The parties have agreed to a short extension of the fact discovery deadline from January 29 to March 26, 2010, which is currently the date for completion of expert witnesses. Since this case is unlikely to require numerous experts, the parties have agreed to extend expert discovery for one month from March 26, 2010 to April 26, 2010. The July 12, 2010 trial date as well as the June 12, 2010 pretrial conference date remain unchanged.

This is the parties' first request to extend any of the discovery deadlines set in the Pretrial Order, and the parties do not anticipate making other requests for additional time. The Court has issued two prior orders that extended the ENE evaluator's jurisdiction. The first order was entered on September 29, 2009, and the most recent was entered on December 17, 2009.

Dated: December 18, 2009

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By: s/Sean Connolly
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Attorneys for Defendants CITY AND COUNTY OF SAN FRANCISCO, et al.

1 Dated: December 18, 2009
2

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3 By: s/Joseph Brent

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5 Attorneys for plaintiffs JEFFREY BITTON,
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ORDER

Pursuant to stipulation, and good cause having been found, it is ordered that fact discovery closure date is extended from January 29, 2010 to and including March 26, 2010. Expert discovery closure date is extended from March 26, 2010 to April 26, 2010. All other dates in the Pretrial Order remain unchanged, including the April 9, 2010 deadline for the filing of any dispositive motion.

Date: December 22, 2009

Maxine M. Chayney
The Honorable Maxine M. Chayney
Judge of the United States District Court